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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,579	09/14/2006	James Lee Plamondon	1029685-000017	4298

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EXAMINER	
UHLIR, CHRISTOPHER J	

ART UNIT	PAPER NUMBER
2837	

NOTIFICATION DATE	DELIVERY MODE
12/10/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/585,579	PLAMONDON, JAMES LEE	
	Examiner	Art Unit	
	Christopher Uhler	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/10/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- Reference characters 36, 37, and 38 from Figure 5
- Reference characters 39, 46, 90, 91, 92, 94, 97, 98, 99, 100 from Figure 10
- Reference characters 101, 107, 108, 109, 113, from Figure 12

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: reference character number '136' should be replaced by number '36' on page 12.

Appropriate correction is required.

Claim Objections

3. Claims 14 and 22 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form. These claims recite only specific function of previous limitations and lacks structure. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP § 2106 C.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-18 and 20-25 are rejected under 35 U.S.C. 103(a) as being obvious over Suzuki et al. (US 5,105,708).

Regarding claim 11, Suzuki et al. discloses a portable user operated button field electronic music controller where Fig. 3 shows multiple finger actuated input buttons or finger selectors SR₃ through SR₇ in a first zone, actuated by at least one finger of a user's first or right hand (column 2 lines 47-50). Fig. 12 shows a user's fingers of said first hand to correspond to note identifier buttons, or sharp and flat buttons.

Fig. 3 further shows multiple thumb actuated input devices or finger selectors SR₁ and SR₂ in a second zone, actuated by said user's thumb on said first hand (column 2 lines 50-52). Said music controller is arranged where simultaneous operation of finger actuated input buttons and thumb actuated input devices can be occur due to the positioning of said first zone and said second zone, as can be seen from Fig. 3. Suzuki et al. fails to explicitly disclose that the thumb of a user's first hand corresponds to effect identifier devices.

However Fig. 12 of Suzuki et al. shows different input means corresponding to tone volume and vibrato. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the music controller disclosed by Suzuki et al. with thumb actuated effect identifier input devices. This would involve only a programming modification in which different buttons and devices produce different sounds and effects. Doing this would provide greater versatility and variation in the use of said music controller.

In reference to claims 12 and 20, Suzuki et al. discloses a music controller as stated above where the magnitude of effects such as vibrato are multi-variate, or can be varied (column 9 lines 16-18).

In reference to claims 13 and 21, Suzuki et al. discloses a music controller as stated above where any finger actuated input button or device SR₃ through SR₇ can be played with a finger of a given hand while any thumb actuated input device SR₁ or SR₂ can be reached with the thumb of said given hand due to the positioning of said buttons and devices, as can be seen from Fig. 3.

In reference to claims 14, 15, 22, and 23, Suzuki et al. discloses a music controller as stated above where finger actuated input buttons generate music effect values based on applied finger force or pressure (column 2 lines 37-44).

In reference to claims 16 and 24, Suzuki et al. discloses a music controller as stated above where an effect identifier outputs of MIDI format is produced (column 7 lines 28-30), such as tone pitch bending (column 7 lines 21-22).

In reference to claims 17 and 25, Suzuki et al. discloses a music controller as stated above where said thumb actuated input device is a push button, as can be seen from Fig. 3.

In reference to claim 18, Suzuki et al. discloses a portable user operated electronic music controller where Fig. 3 shows multiple finger actuated input devices or finger selectors SR₃ through SR₇ in a third zone, actuated by at least one finger of a user's right hand (column 2 lines 47-50). Fig. 12 shows a user's fingers of said right hand to correspond to note identifier devices, or sharp and flat characteristics.

Fig. 3 further shows multiple thumb actuated input devices or finger selectors SR₁ and SR₂ in a fourth zone, actuated by said user's thumb on said right hand (column 2 lines 50-52). Said music controller is arranged where simultaneous operation of finger

actuated input devices and thumb actuated input devices can be occur due to the positioning of said third zone and said fourth zone, as can be seen from Fig. 3.

Suzuki et al. further discloses a second music controller used with the left hand, that is symmetrical to the music controller used with the right hand (column 2 lines 19-22). Therefore, multiple finger actuated input devices or finger selectors SL₃ through SL₇ are in a first zone, actuated by at least one finger of a user's left hand as can be seen from Fig. 2. Fig. 12 shows a user's fingers of said left hand to correspond to note identifier devices, or instrumental tone characteristics.

Fig. 2 further shows multiple thumb actuated input devices or finger selectors SL₁ and SL₂ in a second zone, actuated by said user's thumb on said left hand. This music controller is arranged where simultaneous operation of finger actuated input devices and thumb actuated input devices can be occur due to the positioning of said first zone and said second zone, as can be seen from Fig. 2. Suzuki et al. fails to explicitly disclose that the thumb of a user's right and left hand corresponds to effect identifier devices.

However Fig. 12 of Suzuki et al. shows different input means corresponding to tone volume and vibrato. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the music controller disclosed by Suzuki et al. with thumb actuated effect identifier input devices. This would involve only a programming modification in which different buttons and devices produce different sounds and effects. Doing this would provide greater versatility and variation in the use of said music controller.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 5,105,708) in view of Galocy (US 5,463,925). Suzuki et al. discloses a music controller as stated above having said first and second zones in a first portion, as can be seen from Fig. 2. Suzuki et al. further discloses said third and fourth zones to be in a second portion, as can be seen from Fig. 3. This reference fails to disclose that said first and second portions are joined with a hinge.

However Galocy teaches a portable user operated electronic music controller having a first portion and a second portion that are joined with a hinge, as can be seen from Fig. 4.

Since these references pertain to portable user operated electronic music controllers, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the music controller disclosed by Suzuki et al. with a hinge joining the first and second portions as taught by Galocy. Doing so would provide a music controller which can be easily portable and stowed while reliably being self contained, as taught by Galocy (column 1 lines 64-67).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. A list of pertinent prior art is attached as form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Uhler whose telephone number is 571-270-

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3091. The examiner can normally be reached on Monday-Thursday 8:00am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher J Uhler
December 3, 2007

